

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION FOR) DECLARATORY RULING
DECLARATORY RULING OF WEST RIVER)
ELECTRIC ASSOCIATION, INC. ON WHETHER) EL00-030
A PROPOSED TRANSMISSION LINE MEETS)
THE DEFINITION OF SDCL 49-41B-2.1)

On October 12, 2000, the Public Utilities Commission (Commission) received a petition from West River Electric Association, Inc. (WREA) seeking a determination as to whether the Commission has jurisdiction over the siting of WREA's proposed construction of a new 115 kV transmission line near Rapid City, South Dakota. In its petition, WREA stated that it "has determined that it needs to obtain a 115 kV power connection from WAPA and run it into a switchyard where WREA would then take the 115 kV line out of the switchyard and run it approximately 2 miles to a distribution substation where it would be reduced to 7200 volts. The proposed 115kV transmission line would terminate at this substation and would be owned and operated by WREA." WREA further stated that the transmission line will be two miles long and that it follows section lines, the edge of private property and runs adjacent to county road 4C, also know as Elk Creek Road.

On November 13, 2000, the Commission received a response from WREA which addressed questions from Michele Farris, a staff analyst for the Commission. In that response WREA attached a letter from the Office of the Meade County Highway Superintendent which requested WREA to place its proposed transmission line 52 feet from the centerline of the current right-of-way because Meade County intended to build a new road within the next five years and anticipated purchasing a minimum of 100 feet of right-of-way. In order to accommodate the county, a map submitted by WREA showed that the proposed transmission line would be built 52 feet from the existing centerline which would be 19 feet outside of the existing 66 foot right-of-way and two feet outside the proposed 100 foot right-of-way for the new road.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-41B. At its November 30, 2000, meeting, the Commission considered this matter. WREA presented additional information on its proposed transmission line. Following the presentation, the Commission voted to find it has jurisdiction over siting the proposed transmission line (Commissioner Burg, dissenting). Pursuant to SDCL 49-41B-2.1(2), a 115 kV transmission line is subject to the Commission's siting jurisdiction "if more than one mile in length of the transmission line does not follow section lines, property lines, roads, highways or railroads, or is not reconstruction or modification of existing transmission lines and existing associated facilities located on abandoned railroad rights-of-way. . . ." Consistent with its decision in Docket EL98-004, the Commission finds that following roads or highways means the transmission line must be located within the easement or right-of-way of the road or highway, that following section lines means the transmission line must be located within the section line public highway, and that following property lines means the transmission line must be located on the property line. See Docket EL98-004, *In the Matter of the Petition for Declaratory Ruling Filed by the City of Pierre Regarding a Transmission Line, Declaratory Ruling*, issued June 30, 1998, (conclusions of law 4, 5 and 6). As proposed by WREA, the proposed transmission line would be 19 feet outside of the existing 66 foot right-of-way. Under the facts of this case, the Commission finds that more than one mile of the proposed transmission line does not follow section lines, property lines, roads, highways or railroads, or is not reconstruction or modification of existing transmission lines and existing associated facilities located on abandoned railroad rights-of way. Therefore, the Commission finds it has siting jurisdiction over the 115 kV transmission line as proposed by WREA. It is therefore

ORDERED, that WREA's proposed 115 kV transmission line is not exempt from the Commission's siting jurisdiction.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 14th day of December, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 14th day of December, 2000.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: _____

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman, dissenting

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner